

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**JOHN JENNINGS, II**

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)

**Case No.: 3:06cr126-WHA**

**UNOPPOSED MOTION TO CONTINUE TRIAL**

**COMES NOW** the Defendant, John Jennings, II, by and through undersigned counsel, Kevin L. Butler, and moves this Court, pursuant to 18 U.S.C. §§ 3161(h)(1)(A), (h)(1)(f), (h)(8)(B)(I), (h)(8)(B)(ii), and (h)(8)(B)(iv) for a continuance of his trial setting of August 6, 2007. In support of this motion, Defendant would show:

1. Mr. Jennings is charged with using the mail (or means of commerce) to knowingly induce a person who has not attained the age of 18 to engage in sexual activity in violation of 18 U.S.C. § 2251(a).
2. Mr. John Jennings, II, is 23 years old and mentally retarded. At the time of the offense he was approximately 21. He was enrolled in special education courses until the age of 20 and has an average IQ of approximately 80. The defense asserts that at the time of the offense, Mr. Jennings was suffering from a mental disease or defect that rendered him legally insane and/or Mr. Jennings' mental disease or defect rendered him unable to knowing and intelligently commit this offense.<sup>1</sup>
3. Though the government acknowledges that Mr. Jennings may have some limitations, **it does**

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<sup>1</sup> As the court is aware, substantial litigation has taken place regarding whether Mr. Jennings provided knowing and intelligent statements to law enforcement.

**not concede** that Mr. Jennings was legally insane at the time of the offense and it believes that Mr. Jennings knowingly and intelligently committed this offense.

4. After good faith negotiations, the parties agree that a negotiated disposition of this matter may be reached. The government's primary concern is that regardless of whether Mr. Jennings is or is not suffering from a mental deficiency, any resolution must satisfy it that Mr. Jennings will no longer pose a threat to juveniles.
5. In order to resolve this case and address the government's concerns, the defense is investigating whether there is a treatment facility/program that can provide long term mental health counseling, social training and behavior modification for individuals with Mr. Jennings' limitations.
6. However, because the defense can not complete this mitigation investigation on before the presently scheduled trial date, it is in the interest of justice to continue trial for 90 days.
7. Requests for a continuance are addressed to the sound discretion of the trial court. United States v. Darby, 744 F.2d 1508, 1521 (11th Cir. 1984), reh. denied 749 F.2d 733, cert. denied 471 U.S. 1100 (1985). Additionally, pursuant to 18 U.S.C. §§ 3161(h)(1)(A), (h)(1)(I), (h)(4), (h)(8)(B)(i), (h)(8)(B)(ii), and (h)(8)(B)(iv), this Court has authority to continue trial to allow counsel time for psychiatric examinations necessary for competence and a potential resolution that will have to be reviewed by the court.
8. The United States, through Assistant United States Attorney Susan Redmond, does not oppose the granting of a continuance.

**WHEREFORE**, for the foregoing reasons, Mr. Jennings respectfully requests that his trial date be continued at least 90 days from the presently scheduled August 6, 2007 trial date.

Dated this 27<sup>th</sup> day of July 2007.

Respectfully submitted,

s/ Kevin L. Butler

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 27, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Susan Redmond, Esquire  
Assistant United States Attorney  
One Court Square, Suite 201  
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler  
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